within the well-recognized police power of the state, inasmuch as one of the purposes of the organization of our government is to secure to men the "inalienable right" of "pursuing and obtaining safety and happiness." *Brown* v. *City of Los Angeles* (Cal., 1920), 192 Pac. 716.

The police power of the state is that inherent or plenary power which enables the state to prohibit all things hurtful to the comfort, safety and welfare of society, and may be termed "the law of overruling necessity." *Town of Lake View* v. *Rosehill Cemetery Co.*, 70 Ill. 191. Anything which is hurtful to the public interest is subject to the police power, and may be restrained or prohibited in the exercise of that power. *Harmon* v. *City of Chicago*, 110 Ill. 400. Municipalities are allowed a greater degree of legislation in this direction than in any other. *Gundling* v. *City of Chicago*, 176 Ill. 340. An ordinance for the preservation of the public health, prohibiting the interment of dead human bodies within specified limits of a city, is valid. *Austin* v. *Austin City Cemetery Association*, 87 Tex. 330. A city can regulate hospitals for the insane under its police power because this is for the protection of the public health and safety. Billboard regulations that protect public safety, health and morals are valid, but those regulations that are made only for aesthetic purposes are invalid. *Com.* v. *Boston Advertising Co.*, 188 Mass. 348. *Chicago* v. *Gunning System*, 214 Ill. 628. There seems to be little doubt that the right to secure to men the "inalienable right" of "pursuing and obtaining safety and happiness" would, from the public point of view, include the right to prevent nuisances. An undertaking establishment is not a nuisance *per se*. But there are numerous businesses not nuisances *per se* that a city can exclude from residential districts because of their proneness to become injurious to health, offensive to the senses, or an obstruction to the free use of property. *City of St. Paul* v. *Kessler* (Minn.), 178 N. W. 171. Lord Hardwicke's view in *Anonymous*, 3 Atk. 750, that the fears of mankind, though they may be reasonable ones, will not create a nuisance, is widely disputed. *Stotler* v. *Rochelle*, 83 Kan. 86. In *Beissel* v. *Crosby* (Neb.), 178 N. W. 272, the court held that an undertaking establishment was a nuisance that could be enjoined. An undertaking establishment may be enjoined as a nuisance where it appears that noxious odors and gases will permeate the neighborhood. In the recent case of *City of St. Paul* v. *Kessler, supra*, the court held that an ordinance prohibiting funeral homes in residence districts was valid under the police power expressly given in the city's charter. See 19 MICH. L. REV. 191; 13 MICH. L. REV. 169.

NEGLIGENCE—CONCURRENT ACTS—EFFICIENT INTERVENING CAUSE.—Where the defendant negligently allowed his sidewalk elevator to remain unguarded and a third person negligently operated it, injuring the plaintiff, it was *held* that the act of the third person was not legally an efficient intervening cause. *Rosenholz* v. *Frank G. Shattuck Co.* (N. Y., 1920), 183 N. Y. S. 23.

It is universally settled that if the concurrent or successive negligence of two persons, combined together, results in an injury to a third person, he may recover damages of either or both, and neither can interpose the

defense that the prior or concurrent negligence of the other contributed to the injury. *Ry. Co.* v. *Callaghan*, 56 Fed. 988; *Lane* v. *Atlantic Works*, 107 Mass. 104; *Weik* v. *Lander, Admr.*, 75 Ill. 93; *Johnson* v. *Northwest Tel. Exch. Co.*, 48 Minn. 433. See also 1 THOMP. NEG. [2nd ed.], Sec. 75, and cases there cited. As a test of concurrence many courts lay down that if the injury could not have happened in the absence of either the defendant's negligence or that of the third person, then the two are concurrent causes. *Quill* v. *Ry. Co.*, 11 N. Y. S. 80, aff. 126 N. Y. 629; *Pastene* v. *Adams*, 49 Cal. 87; *Martin* v. *Iron Works*, 31 Minn. 407; *Mahar* v. *Steuer*, 170 Mass. 454; *Gonzales* v. *City of Galveston*, 84 Tex. 3; *Snydor* v. *Arnold*, 122 Ky. 557. As stated by the court in *Johnson* v. *Northwest Tel. Exch. Co., supra*, "The negligence of each is a proximate cause where the injury would not have occurred but for that negligence." Some of the federal courts, however, have not given the rule such a liberal interpretation. *Cole* v. *German Savings & Loan Soc.*, 124 Fed. 113; *Mella* v. *Northern Steamship Co.*, 162 Fed. 513; *Jennings* v. *Davis*, 187 Fed. 703; *Ry. Co.* v. *Gelvin*, 238 Fed. 14. But see *Ry. Co.* v. *Callaghan, supra*, and *Gas & Elec. Co.* v. *Nicholson*, 152 Fed. 389. As was decided in the principal case, the question whether the defendant's negligence was the proximate cause of the injury is for the jury. And by the weight of authority it would seem that the defendant's negligence must be considered proximate to the result if the jury find that it contributed in any degree thereto, regardless of the relative degree of culpability of the third person. *Eads* v. *City of Marshall*, 29 S. W. (Tex. Civ. App.) 170 (no official report); *Ry. Co.* v. *McWhirter*, 77 Tex. 356; *Griggs* v. *Fleckenstein*, 14 Minn. 81; *McCauley* v. *Norcross*, 155 Mass. 584; *Hunt* v. *Ry. Co.*, 14 Mo. App. 160; *Tel. Co.* v. *Gasper*, 123 Ky. 128; *Lundeen* v. *Elec. Light Co.*, 17 Mont. 32.

SEARCHES AND SEIZURES—CONSTITUTIONAL LAW—EVIDENCE.—D was convicted of having intoxicating liquors in his possession for the purpose of sale, in violation of a statute. Police officers illegally searched D's residence without a warrant and the liquor found there was used as evidence against him, despite objections to its admissibility made at the trial. *Held*, it was error, for evidence illegally obtained is admissible in evidence. *Youman* v. *Commonwealth* (Ky., 1920), 224 S. W. 860.

"It has long been established," writes Professor Wigmore in his work on EVIDENCE, page 2955, "that the admissibility of evidence is not affected by the illegality through which the party has been enabled to obtain the evidence," and until recently at least this principle has been followed with almost unanimity by the courts. See notes in L. R. A. 1915 B 834, and 34 L. R. A. (N. S.) 59. Any doubts cast upon this doctrine in *Boyd* v. *United States*, 116 U. S. 616, were seemingly dispelled in *Adams* v. *New York*, 192 U. S. 585, where the orthodox rule was broadly announced and followed. However, the Supreme Court had become dissatisfied with its position and its inevitable result in encouraging such unlawful seizures, and when the question next came before it in *Weeks* v. *United States*, 232 U. S.